



Reprinted  
February 22, 2005

## HOUSE BILL No. 1297

DIGEST OF HB 1297 (Updated February 21, 2005 6:49 pm - DI 87)

**Citations Affected:** IC 36-4; noncode.

**Synopsis:** Annexation. Allows a municipality in Elkhart County to annex territory that: (1) is not contiguous to the municipality; (2) has its entire area not more than two miles from the municipality's boundary; (3) is to be used for an industrial park containing one or more businesses; and (4) is either owned by the municipality or by a property owner who consents to the annexation. Allows the following to exempt annexed agricultural land from property tax liability until the land is rezoned under a different classification: (1) A town located in a county that contains a racetrack sanctioned by a nationally chartered and recognized auto racing organization. (2) The town of Pendleton. (3) The town of Lapel. (4) A town located in a township that borders the Muscatatuck River. Provides that an annexation ordinance adopted before July 1, 2000 is void if the annexation ordinance is not in effect on July 1, 2005.

**Effective:** July 1, 2005.

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**Whetstone, Reske, Walorski**

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January 11, 2005, read first time and referred to Committee on Local Government.  
February 17, 2005, amended, reported — Do Pass.  
February 21, 2005, read second time, amended, ordered engrossed.

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HB 1297—LS 6520/DI 87+



Reprinted  
February 22, 2005

First Regular Session 114th General Assembly (2005)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2004 Regular Session of the General Assembly.

## HOUSE BILL No. 1297

A BILL FOR AN ACT to amend the Indiana Code concerning local government.

*Be it enacted by the General Assembly of the State of Indiana:*

1 SECTION 1. IC 36-4-3-4 IS AMENDED TO READ AS FOLLOWS  
2 [EFFECTIVE JULY 1, 2005]: Sec. 4. (a) The legislative body of a  
3 municipality may, by ordinance, annex any of the following:

4 (1) Territory that is contiguous to the municipality.

5 (2) Territory that is not contiguous to the municipality and is  
6 occupied by a municipally owned or operated airport or landing  
7 field.

8 (3) Territory that is not contiguous to the municipality but is  
9 found by the legislative body to be occupied by a municipally  
10 owned or regulated sanitary landfill, golf course, or hospital.  
11 However, if territory annexed under this subsection ceases to be  
12 used as a municipally owned or regulated sanitary landfill, golf  
13 course, or hospital for at least one (1) year, the territory reverts to  
14 the jurisdiction of the unit having jurisdiction before the  
15 annexation if the unit that had jurisdiction over the territory still  
16 exists. If the unit no longer exists, the territory reverts to the  
17 jurisdiction of the unit that would currently have jurisdiction over

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the territory if the annexation had not occurred. The clerk of the municipality shall notify the offices required to receive notice of a disannexation under section 19 of this chapter when the territory reverts to the jurisdiction of the unit having jurisdiction before the annexation.

(b) This subsection applies to municipalities in a county having a population of:

- (1) more than seventy-three thousand (73,000) but less than seventy-four thousand (74,000);
- (2) more than seventy-one thousand four hundred (71,400) but less than seventy-three thousand (73,000);
- (3) more than seventy thousand (70,000) but less than seventy-one thousand (71,000);
- (4) more than forty-five thousand (45,000) but less than forty-five thousand nine hundred (45,900);
- (5) more than forty thousand nine hundred (40,900) but less than forty-one thousand (41,000);
- (6) more than thirty-eight thousand (38,000) but less than thirty-nine thousand (39,000);
- (7) more than thirty thousand (30,000) but less than thirty thousand seven hundred (30,700);
- (8) more than twenty-three thousand five hundred (23,500) but less than twenty-four thousand (24,000); or
- (9) more than ~~two hundred thousand (200,000)~~ **one hundred eighty-two thousand seven hundred ninety (182,790)** but less than three hundred thousand (300,000).

Except as provided in subsection (c), the legislative body of a municipality to which this subsection applies may, by ordinance, annex territory that is not contiguous to the municipality, has its entire area not more than two (2) miles from the municipality's boundary, is to be used for an industrial park containing one (1) or more businesses, and is either owned by the municipality or by a property owner who consents to the annexation. However, if territory annexed under this subsection is not used as an industrial park within five (5) years after the date of passage of the annexation ordinance, or if the territory ceases to be used as an industrial park for at least one (1) year, the territory reverts to the jurisdiction of the unit having jurisdiction before the annexation if the unit that had jurisdiction over the territory still exists. If the unit no longer exists, the territory reverts to the jurisdiction of the unit that would currently have jurisdiction over the territory if the annexation had not occurred. The clerk of the municipality shall notify the offices entitled to receive notice of a

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disannexation under section 19 of this chapter when the territory reverts to the jurisdiction of the unit having jurisdiction before the annexation.

(c) A city in a county with a population of more than two hundred thousand (200,000) but less than three hundred thousand (300,000) may not annex territory as prescribed in subsection (b) until the territory is zoned by the county for industrial purposes.

(d) Notwithstanding any other law, territory that is annexed under subsection (b) or (h) is not considered a part of the municipality for the purposes of:

(1) annexing additional territory:

(A) in a county that is not described by clause (B); or

(B) in a county having a population of more than two hundred thousand (200,000) but less than three hundred thousand (300,000), unless the boundaries of the noncontiguous territory become contiguous to the city, as allowed by Indiana law;

(2) expanding the municipality's extraterritorial jurisdictional area; or

(3) changing an assigned service area under IC 8-1-2.3-6(1).

(e) As used in this section, "airport" and "landing field" have the meanings prescribed by IC 8-22-1.

(f) As used in this section, "hospital" has the meaning prescribed by IC 16-18-2-179(b).

(g) An ordinance adopted under this section must assign the territory annexed by the ordinance to at least one (1) municipal legislative body district.

(h) This subsection applies to a city having a population of more than thirty-one thousand (31,000) but less than thirty-two thousand (32,000). The legislative body of a city may, by ordinance, annex territory that:

(1) is not contiguous to the city;

(2) has its entire area not more than eight (8) miles from the city's boundary;

(3) does not extend more than:

(A) one and one-half (1 1/2) miles to the west;

(B) three-fourths (3/4) mile to the east;

(C) one-half (1/2) mile to the north; or

(D) one-half (1/2) mile to the south;

of an interchange of an interstate highway (as designated by the federal highway authorities) and a state highway (as designated by the state highway authorities); and

(4) is owned by the city or by a property owner that consents to

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the annexation.

SECTION 2. IC 36-4-3-4.1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 4.1. (a) This section applies to the following:

(1) A town having a population of:

(A) more than fifteen thousand (15,000); or

(B) more than five thousand (5,000) but less than six thousand three hundred (6,300);

located in a county having a population of more than one hundred thousand (100,000) but less than one hundred five thousand (105,000).

(2) A city having a population of more than thirty-two thousand eight hundred (32,800) but less than thirty-three thousand (33,000).

(3) A municipality that is located in a county having a population of more than four hundred thousand (400,000) but less than seven hundred thousand (700,000).

(4) A town having a population of more than nine thousand (9,000) but less than thirty thousand (30,000) located in a county having a population of more than one hundred eighty thousand (180,000) but less than one hundred eighty-two thousand seven hundred ninety (182,790).

**(5) A town located in a county that contains a racetrack sanctioned by a nationally chartered and recognized auto racing organization.**

**(6) A town having a population of more than three thousand five hundred (3,500) located in a county having a population of more than one hundred thirty thousand (130,000) but less than one hundred forty-five thousand (145,000).**

**(7) A town having a population of more than one thousand five hundred (1,500) but less than one thousand nine hundred (1,900) located in a county having a population of more than one hundred thirty thousand (130,000) but less than one hundred forty-five thousand (145,000).**

**(8) A town located in a township that borders the Muscatatuck River.**

(b) Except as provided in subsection (c), the legislative body of a municipality to which this section applies may, by ordinance, annex territory that:

(1) is contiguous to the municipality;

(2) in the case of a municipality described in subsection ~~(a)(1)~~ **(a)(1)(A) or (a)(1)(B)**, has its entire area within the township

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1 within which the municipality is primarily located; and

2 (3) is owned by a property owner who consents to the annexation.

3 (c) Subsection (b)(2) does not apply to a town having a population

4 of:

5 (1) more than five thousand (5,000) but less than eight thousand  
6 (8,000); or

7 (2) more than nine thousand (9,000) but less than twelve thousand  
8 five hundred (12,500);

9 in a county having a population of more than four hundred thousand  
10 (400,000) but less than seven hundred thousand (700,000).

11 (d) Territory annexed under this section is exempt from all property  
12 tax liability under IC 6-1.1 for municipal purposes for all portions of  
13 the annexed territory that ~~is~~ **are** classified for zoning purposes as  
14 ~~agriculture~~ **agricultural** and ~~remains~~ **remain** exempt from the property  
15 tax liability while the property's zoning classification remains  
16 ~~agriculture~~ **agricultural**.

17 (e) There may not be a change in the zoning classification of  
18 territory annexed under this section without the consent of the owner  
19 of the annexed territory.

20 **(f) Except as provided in subsection (g), territory annexed under**  
21 **this section may not be considered a part of the municipality for**  
22 **purposes of involuntarily annexing additional territory.**

23 **(g) Territory annexed under this section shall be considered a**  
24 **part of the municipality for purposes of annexing additional**  
25 **territory under section 5 or section 5.1 of this chapter.**

26 **SECTION 3. [EFFECTIVE JULY 1, 2005] An annexation**  
27 **ordinance adopted under IC 36-4-3 before July 1, 2000 is void if**  
28 **the annexation ordinance is not in effect on the effective date of this**  
29 **act.**

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## COMMITTEE REPORT

Mr. Speaker: Your Committee on Local Government, to which was referred House Bill 1297, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 1, between the enacting clause and line 1, begin a new paragraph and insert:

"SECTION 1. IC 36-4-3-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 4. (a) The legislative body of a municipality may, by ordinance, annex any of the following:

- (1) Territory that is contiguous to the municipality.
- (2) Territory that is not contiguous to the municipality and is occupied by a municipally owned or operated airport or landing field.
- (3) Territory that is not contiguous to the municipality but is found by the legislative body to be occupied by a municipally owned or regulated sanitary landfill, golf course, or hospital. However, if territory annexed under this subsection ceases to be used as a municipally owned or regulated sanitary landfill, golf course, or hospital for at least one (1) year, the territory reverts to the jurisdiction of the unit having jurisdiction before the annexation if the unit that had jurisdiction over the territory still exists. If the unit no longer exists, the territory reverts to the jurisdiction of the unit that would currently have jurisdiction over the territory if the annexation had not occurred. The clerk of the municipality shall notify the offices required to receive notice of a disannexation under section 19 of this chapter when the territory reverts to the jurisdiction of the unit having jurisdiction before the annexation.

(b) This subsection applies to municipalities in a county having a population of:

- (1) more than seventy-three thousand (73,000) but less than seventy-four thousand (74,000);
- (2) more than seventy-one thousand four hundred (71,400) but less than seventy-three thousand (73,000);
- (3) more than seventy thousand (70,000) but less than seventy-one thousand (71,000);
- (4) more than forty-five thousand (45,000) but less than forty-five thousand nine hundred (45,900);
- (5) more than forty thousand nine hundred (40,900) but less than forty-one thousand (41,000);
- (6) more than thirty-eight thousand (38,000) but less than

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thirty-nine thousand (39,000);

(7) more than thirty thousand (30,000) but less than thirty thousand seven hundred (30,700);

(8) more than twenty-three thousand five hundred (23,500) but less than twenty-four thousand (24,000); or

(9) more than ~~two hundred thousand (200,000)~~ **one hundred eighty-two thousand seven hundred ninety (182,790)** but less than three hundred thousand (300,000).

Except as provided in subsection (c), the legislative body of a municipality to which this subsection applies may, by ordinance, annex territory that is not contiguous to the municipality, has its entire area not more than two (2) miles from the municipality's boundary, is to be used for an industrial park containing one (1) or more businesses, and is either owned by the municipality or by a property owner who consents to the annexation. However, if territory annexed under this subsection is not used as an industrial park within five (5) years after the date of passage of the annexation ordinance, or if the territory ceases to be used as an industrial park for at least one (1) year, the territory reverts to the jurisdiction of the unit having jurisdiction before the annexation if the unit that had jurisdiction over the territory still exists. If the unit no longer exists, the territory reverts to the jurisdiction of the unit that would currently have jurisdiction over the territory if the annexation had not occurred. The clerk of the municipality shall notify the offices entitled to receive notice of a disannexation under section 19 of this chapter when the territory reverts to the jurisdiction of the unit having jurisdiction before the annexation.

(c) A city in a county with a population of more than two hundred thousand (200,000) but less than three hundred thousand (300,000) may not annex territory as prescribed in subsection (b) until the territory is zoned by the county for industrial purposes.

(d) Notwithstanding any other law, territory that is annexed under subsection (b) or (h) is not considered a part of the municipality for the purposes of:

(1) annexing additional territory:

(A) in a county that is not described by clause (B); or

(B) in a county having a population of more than two hundred thousand (200,000) but less than three hundred thousand (300,000), unless the boundaries of the noncontiguous territory become contiguous to the city, as allowed by Indiana law;

(2) expanding the municipality's extraterritorial jurisdictional area; or

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(3) changing an assigned service area under IC 8-1-2.3-6(1).

(e) As used in this section, "airport" and "landing field" have the meanings prescribed by IC 8-22-1.

(f) As used in this section, "hospital" has the meaning prescribed by IC 16-18-2-179(b).

(g) An ordinance adopted under this section must assign the territory annexed by the ordinance to at least one (1) municipal legislative body district.

(h) This subsection applies to a city having a population of more than thirty-one thousand (31,000) but less than thirty-two thousand (32,000). The legislative body of a city may, by ordinance, annex territory that:

- (1) is not contiguous to the city;
- (2) has its entire area not more than eight (8) miles from the city's boundary;
- (3) does not extend more than:
  - (A) one and one-half (1 1/2) miles to the west;
  - (B) three-fourths (3/4) mile to the east;
  - (C) one-half (1/2) mile to the north; or
  - (D) one-half (1/2) mile to the south;
 of an interchange of an interstate highway (as designated by the federal highway authorities) and a state highway (as designated by the state highway authorities); and
- (4) is owned by the city or by a property owner that consents to the annexation."

Renumber all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to HB 1297 as introduced.)

HINKLE, Chair

Committee Vote: yeas 7, nays 3.

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## HOUSE MOTION

Mr. Speaker: I move that House Bill 1297 be amended to read as follows:

Page 4, between lines 25 and 26, begin a new line block indented and insert:

**"(6) A town having a population of more than three thousand five hundred (3,500) located in a county having a population of more than one hundred thirty thousand (130,000) but less than one hundred forty-five thousand (145,000).**

**(7) A town having a population of more than one thousand five hundred (1,500) but less than one thousand nine hundred (1,900) located in a county having a population of more than one hundred thirty thousand (130,000) but less than one hundred forty-five thousand (145,000).**

**(8) A town located in a township that borders the Muscatatuck River."**

(Reference is to HB 1297 as printed February 18, 2005.)

WHETSTONE

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 HOUSE MOTION

Mr. Speaker: I move that House Bill 1297 be amended to read as follows:

Page 5, after line 8, begin a new a paragraph and insert:

**"(f) Except as provided in subsection (g), territory annexed under this section may not be considered a part of the municipality for purposes of involuntarily annexing additional territory.**

**(g) Territory annexed under this section shall be considered a part of the municipality for purposes of annexing additional territory under section 5 or section 5.1 of this chapter."**

(Reference is to HB 1297 as printed February 18, 2005.)

WHETSTONE

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HOUSE MOTION

Mr. Speaker: I move that House Bill 1297 be amended to read as follows:

Page 5, after line 8 , begin a new paragraph and insert:

**"SECTION 3. [EFFECTIVE JULY 1, 2005] An annexation ordinance adopted under IC 36-4-3 before July 1, 2000 is void if the annexation ordinance is not in effect on the effective date of this act".**

(Reference is to HB 1297 as printed February 18, 2005.)

ALDERMAN

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